vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

**NOTICE OF MOTION NO.870 OF 2005**
IN
SUIT NO.3513 OF 1988

Naseem J. Dhunjibhoy ... Plaintiff

V/s.

Dinshaw J. Mistry & Ors. ... Defendants

Mr.Dattatrey Nawale for the Plaintiff
Mr.N.A. Jhaveri for the Defendant Nos.1 and 2
Mr.Z.D. Nallaseth for Defendant No.3

**CORAM : SMT. NISHITA MHATRE, J.**

**DATED : AUGUST 8, 2006**

**P.C.:**

. Defendant Nos.1 and 2 have filed the present Motion for taking on record their written statement. The affidavit in support of the Motion has been filed by Defendant No.2 contending that she could not attend the matter due to her absence from Mumbai on account of her husband's employment. Defendant No.1 was also not in good health and therefore, it is prayed that the written statement be taken on record.

2. This application is opposed by the plaintiff contending that Defendant No.2 has attended the Court in these proceedings on various occasions. It is submitted, therefore, that she is not entitled to file the written statement after 18 years.

3. There has been an inordinate delay on the part of the Defendant Nos.1 and 2 in filing the written statement. The defendants have not disclosed the nature of illness which prevented them from filing the written statement for 18 years. However, with a view that no injustice be done to Defendant Nos.1 and 2, the written statement may be taken on record subject to payment of costs of Rs.10,000/- to the plaintiff.

4. Motion is disposed off accordingly.